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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/550,171

09/20/2005

Hugo Schweitzer

113999-144196

5246

25943

7590

07/28/2008

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EXAMINER

JOHNSON, BLAIR M

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

07/28/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/550,171	<b>Applicant(s)</b> SCHWEITZER, HUGO	
	<b>Examiner</b> Blair M. Johnson	<b>Art Unit</b> 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 38-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 38-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 38-42,44,45,48,49,54 and 55 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Schestag.

Schestag discloses a closure which is a “web like” element, and an elastomeric stabilizing element, Fig. 2, which includes reinforcing spring elements 22,23, which inherently meet the restoring force limitations.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 38-46,48,49,54 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hying et al in view of Iseli et al.

Hying et al discloses a roller door having a closing element 14 and a safety edge 20,21, of known structure and operation, column 2, line 64- column 3, line 1, of which a photoelectric device is an obvious choice. What is not shown is the reinforcing spring. However, Iseli et al discloses a elastic door edge sensor that has such a reinforcing

member 9, Figs. 3 and 4. It would have been obvious to provide one or more such reinforcing elements to the safety edge 21 of Hying so as to stabilize the edge.

Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hying et al in view of Iseli et al as applied above, and further in view of Strand.

Strand provides additional sealing lips that would have been an obvious addition to Hying et al so as to further seal the bottom of the door.

Claims 50-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hying et al in view of Iseli et al as applied above, and further in view of Clark.

Providing bristle sealing/aligning means in a track for a roller closure is well known, as illustrated by Clark and it would have been obvious to provide such for Hying et al so as to both center the closure and to seal the edges.

Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schestag.

The manner in which the stabilizing element is attached to the closure is clearly an obvious design choice and glue and/or screws would have been well known expedients.

### ***Response to Arguments***

Applicant's arguments have been fully considered but they are not persuasive.

Applicant begins by stating that it is "unclear which of Hying or Iseli is being cited". However, the rejection is quite clear that Hying is the primary reference and Iseli is being used to modify Hying. Consequently, Applicant's confusion on this matter is not understood.

Applicant further states that neither reference provides the leaf spring as recited. However, Iseli provides a sensing edge with a leaf spring 9 precisely for reinforcement, thereby providing a directly analogous teaching applicable to Hying. The orientation of the leaf spring clearly meets the claim limitation. It is inherent that the flat, broad side of the leaf spring would face the direction from which a force would come that it intended to make it "give".

Regarding claim 41, providing two, three or more springs would have been obvious, as discussed above.

Regarding claims 49 and 53, the term "web-like" is extremely broad and easily reads on the structure of Hying.

Applicant discusses roll-up doors and associated problems and how this discredits the rejection. However, a roll-up door has not been claimed. In this regard, Applicant is reading more into the claims that is present.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (571) 272-6830. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on (571) 272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3634

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Blair M. Johnson/  
Primary Examiner, Art Unit 3634

BMJ  
7/22/08